

REMARKS

In response to the Final Office Action mailed September 25, 2009, Applicant respectfully requests entry of this Amendment, which is believed to comply with 37 C.F.R. § 1.116, and reconsideration of the application in view of the following remarks.

I. Telephone Call to Examiner

Applicant's representative, Melissa A. Beede (Reg. No. 54,986) contacted the Examiner regarding the rejections of dependent claims 7 and 23. In particular, Applicant's representative requested more information concerning the basis for these rejections. The Examiner called Applicant's representative on December 1, 2009. In connection with the rejection of claim 7, the Examiner stated that he relied on paragraphs 93 to 95 of U.S. Patent Publication No. 2002/0107511 ("Collins"), which teach fluid delivery, but that those paragraphs did not appear to teach fluid delivery through a mandrel. In connection with the rejection of claim 23, the Examiner indicated that the cap and anchor identified in the Office Action appeared to be generally configured in the manner claimed.

II. Amendments to the Claims

Independent claim 1 has been amended to recite the features of dependent claim 7 (now canceled), and the claims depending from claim 7 have been rewritten to depend from claim 1. The rejections of claim 7 are thus addressed below in connection with claim 1. Claim 23, also addressed below, has been rewritten in independent form. No new matter has been added.

III. Rejections of the Claims

a. Rejections of Claim 7

The Examiner rejected dependent claim 7 under 35 U.S.C. §103(a) as being obvious over the following combinations: (1) U.S. Patent No. 5,311,866 ("Kagan") in view of U.S. Patent

Publication No. 2002/0107511 (“Collins”); (2) U.S. Patent No. 5,891,136 (“McGee”) in view of Collins; and (3) Collins in view of Kagan. These rejections are respectfully traversed below in connection with claim 1, which has been amended to include the features of dependent claim 7.

Claim 1 recites a catheter comprising, *inter alia*, a mandrel fixedly attached to the tip portion and slidably disposed within the shaft portion, wherein the mandrel comprises a lumen having a distal opening. The Examiner cited paragraphs 93 to 95 of Collins in connection with this feature, explaining that they teach fluid delivery. However, after further consideration of those paragraphs, the Examiner conceded that they do not appear to teach fluid delivery through a mandrel. Indeed, Collins does not teach or suggest a mandrel comprising a lumen having a distal opening.

In view of the foregoing, the cited combinations do not disclose or suggest “a mandrel fixedly attached to the tip portion and slidably disposed within the shaft portion, wherein the mandrel comprises a lumen having a distal opening,” as recited in claim 1. Accordingly, withdrawal of the rejections of claim 1 is respectfully requested.

b. Rejection of Claim 23

The Examiner rejected dependent claim 23 (now rewritten in independent form) under 35 U.S.C. §103(a) as being obvious over Collins in view of Kagan. This rejection is respectfully traversed.

Claim 23 recites a catheter “wherein the tip portion comprises a cap portion and an anchor portion secured to the cap portion, and wherein the mandrel is secured to the anchor portion and a distal end of the braided conductive member is secured between the cap portion and the anchor portion.”

The Examiner refers to the “first stop portion 20” of Collins as the cap portion recited in claim 23 and to the “first sheath 24” of Collins as the anchor portion recited in claim 23. However, the braided conductive member is not secured between the first stop portion 20 and the first sheath 24 of Collins. In particular, the first stop portion 20 of Collins is not coupled to the first sheath 24 or the braided conductive member, and the first sheath 24 moves independently from the first stop portion 20 (see ¶ 44 of Collins).

Kagan was also cited in connection with claim 23. However, the braid 15 of Kagan is simply coupled to a distal braid ring 23, and there is no tip portion “wherein the tip portion comprises a cap portion and an anchor portion secured to the cap portion, and wherein the mandrel is secured to the anchor portion and a distal end of the braided conductive member is secured between the cap portion and the anchor portion,” as recited in claim 23.

In view of the foregoing, the cited combination does not disclose or suggest a catheter “wherein the tip portion comprises a cap portion and an anchor portion secured to the cap portion, and wherein the mandrel is secured to the anchor portion and a distal end of the braided conductive member is secured between the cap portion and the anchor portion,” as recited in claim 23. Accordingly, withdrawal of the rejection of claim 23 is respectfully requested.

c. Rejections of Claims 24-27

The Examiner rejected dependent claim 24-27 (now rewritten in independent form) under 35 U.S.C. §103(a) as being obvious over Collins in view of Kagan. However, no explanation for these rejections was provided by the Examiner, thus there is no “clear articulation of the reason(s) why the claimed invention would have been obvious.” Accordingly, the examiner has not established a *prima facie* case of obviousness with respect to these claims, and Applicant is under no obligation to submit evidence of nonobviousness. (See e.g., MPEP §2142.)

In view of the foregoing, Applicant requests allowance of claims 24-27, or a further Office Action setting forth a rejection of these claims.

d. Rejections of Remaining Dependent Claims

Since each of the dependent claims depends from an independent claim believed to be in condition for allowance as discussed above, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. However, Applicant does not necessarily concur that the basis for the rejections of any of the remaining dependent claims is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

CONCLUSION

It is respectfully believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment set forth in the Office Action does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify any concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 23/2825 under Docket No. B1075.70043US01 from which the undersigned is authorized to draw.

Dated: December 22, 2009

Respectfully submitted,

By: /Melissa A. Beede/
Melissa A. Beede, Reg. No. 54,986
Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000